

**Letter of Findings: 09-0546  
Gross Retail Tax  
For 2006**

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**ISSUE**

**I. All-Terrain Vehicle – Gross Retail Tax.**

**Authority:** IC § 6-2.5-2-1; IC § 6-2.5-3-2(a); IC § 6-2.5-5-2(a); IC § 6-8.1-5-1(c); [45 IAC 2.2-5-4\(e\)](#); Indiana Dept. of State Revenue v. Interstate Warehousing, 783 N.E.2d 248 (Ind. 2003).

Taxpayer argues that he is not required to pay sales tax on the purchase of a Honda all-terrain vehicle.

**STATEMENT OF FACTS**

In 2006 Taxpayer purchased a Honda all-terrain vehicle (ATV). At the time of the purchase, Taxpayer submitted to the dealer a form ST-108E indicating that the purchase was not subject to sales tax. As a result, Taxpayer did not pay the ATV dealer sales tax on any portion of the approximately \$7,000 price.

The Indiana Department of Revenue (Department) submitted a "Proposed Assessment." Thereafter, Taxpayer submitted a series of "Agricultural Equipment Exemption Usage" forms. Each succeeding questionnaire indicated that the ATV was used in an exempt fashion. Each succeeding questionnaire specified a larger exempt percentage than the previous questionnaire. The Department adjusted downward the amount of proposed assessment. However, Taxpayer apparently disagreed with the extent of that adjustment and submitted a protest. Although Taxpayer was provided an opportunity to explain further the basis for the protest, Taxpayer failed to do so. This Letter of Findings is based upon the limited information contained within the file.

All tax assessments are presumed to be accurate. IC § 6-8.1-5-1(c). The Taxpayer bears the burden of proving that any assessment is incorrect. Id. Exemption statutes are to be strictly construed against the Taxpayer. Indiana Dept. of State Revenue v. Interstate Warehousing, 783 N.E.2d 248 (Ind. 2003).

Indiana imposes a sales tax on the transfer of tangible personal property in a retail transaction. IC § 6-2.5-2-1. Indiana imposes a complementary excise tax, the use tax, on tangible personal property purchased in a retail transaction and stored, used, or consumed in Indiana. IC § 6-2.5-3-2(a).

The Taxpayer bases his claim for exemption from the use tax on the following provisions of IC § 6-2.5-5-2(a) which states as follows: "Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use in the direct production, extraction, harvesting, or processing of agricultural commodities."

This exemption statute is further explained [45 IAC 2.2-5-4\(e\)](#) as follows:

The fact that an item is purchased for use on the farm does not necessarily make it exempt from sale [sic.] tax. It must be directly used by the farmer in the direct production of agricultural products. The property in question must have an immediate effect on the article being produced. Property has an immediate effect on the article being produced if it is an essential and integral part of an integrated process which produces agricultural products. The fact that a piece of equipment is convenient, necessary, or essential to farming is insufficient in itself to determine if it is used directly in direct production as required to be exempt.

The Department has previously adjusted the amount of the proposed assessment based upon what it determined was the exempt usage of the ATV. Taxpayer's bare dissatisfaction with the results is insufficient to justify an additional adjustment. Taxpayer has failed to meet its burden of demonstrating that the proposed assessment – as it now stands – is incorrect.

**FINDING**

Taxpayer's protest is respectfully denied.

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